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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,459	05/31/2001	Soichi Hayashi	209151US6	6885

22850 7590 01/14/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314	**EXAMINER** PORTER, RACHEL L

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
01/14/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

	Application No.	Applicant(s)
Office Action Summary	09/867,459	HAYASHI ET AL.
	Examiner	Art Unit
	Rachel L. Porter	3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 September 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1.   This communication is in response to the amendment filed 9/28/07. Claims 1-24

are pending.

Priority

2.   Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an

application for patent filed in the United States may be entitled to the benefit of the filing

date of a prior application filed in a foreign country.

Continued Examination Under 37 CFR 1.114

3.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/28/07

has been entered.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

As per claim 1, it is unclear whether the applicant intends to claim a system or a

method the prescription creation system. While the preamble the recites a system

comprising, the body of the claim list both system components and method steps.

In *IPXL Holdings, L.L.C. v Amazon.Com, Inc.* (CAFC, 05-1009, -1487,

11/21/2005), the court held a claim covering two statutory classes to be properly

rejected under 112,2nd paragraph:

> Whether a single claim covering both an apparatus and a method
> of use of that apparatus is invalid is an issue of first impression in this
> court. The Board of Patent Appeals and Interferences ("Board") of the
> PTO, however, has made it clear that reciting both an apparatus and a
> method of using that apparatus renders a claim indefinite under section
> 112, paragraph 2. Ex parte Lyell, 17 USPQ2d 1548 (BPAI 1990). As the
> Board noted in Lyell, "the statutory class of invention is important in
> determining patentability and infringement." Id. at 1550 (citing In re Kuehl,
> 475 F.2d 658, 665 (CCPA 1973); Rubber Co. v. Goodyear, 76 U.S. 788,
> 796 (1870)). The Board correctly surmised that, as a result of the
> combination of two separate statutory classes of invention, a manufacturer
> or seller of the claimed apparatus would not know from the claim whether
> it might also be liable for contributory infringement because a buyer or
> user of the apparatus later performs the claimed method of using the
> apparatus. Id. Thus, such a claim "is not sufficiently precise to provide
> competitors with an accurate determination of the 'metes and bounds' of
> protection involved" and is "ambiguous and properly rejected" under
> section 112, paragraph 2. Id. at 1550-51. This rule is well recognized and
> has been incorporated into the PTO's Manual of Patent Examination
> Procedure. § 2173.05(p)(II) (1999) ("A single claim which claims both an
> apparatus and the method steps of using the apparatus is indefinite under
> 35 U.S.C. 112, second paragraph."); see also Robert C. Faber, Landis on
> Mechanics of Patent Claim Drafting § 60A (2001) ("Never mix claim types
> to different classes of invention in a single claim.").

As such, the Examiner is interpreting the claims to mean that the Applicant is

claiming a system with a plurality of nodes.

Claims 2-8 inherit the deficiencies of claim 1 through dependency and are also

rejected.

6.   Claim 19 recites the limitation "said outputting means" in lines 3-4. There is

insufficient antecedent basis for this limitation in the claim. In particular, claim 9, recites

two "outputting means." It is noted that the claim has been amended. However, it

remains unclear from the structure of the claim which "outputting means" is being

referenced in claim 20.

7.   Claim 20 inherits the deficiencies of claim 19 through dependency and is also

rejected.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Powers (USPN 5,956,691) in view of Tyler et al (US 5,523,942) and in further view of

Cowan et al (US 5,828,840)

[claim 1] Powers discloses an insurance design service providing system comprising:

-     an arbitrary communication network; (Powers: col. 5, lines 30-41)

- a plurality of nodes connected to the arbitrary communication network; and

  (Powers: Figure 1: plurality of devices/components)

- a server apparatus configured to output information relating to an insurance

  product meeting a condition on a basis of the condition input from any of the

  nodes connected to the arbitrary communication network, (Powers: Figure 1: ref.

  44; col. 5, lines 43-61; col. 6, lines 9-24) wherein:

  o the nodes calculate an insurance fee using the insurance fee calculation

     module on the basis of the input condition entered by the user via an input

     screen and relating to the insurance product, (col. 6, lines 9-24; col. 7,

     lines 1-39; Figures 3-6)

  o the nodes communicate using the data storage calling module when

     calculating the insurance fee with a database management module

     executed by the server apparatus, and obtain stored data from a

     database using the database management module and display the

     stored data on the input screen in a state modifiable by a user, (col. 5,

     lines 30-60; col. 6, lines 9-24; col. 7, lines 1-39)

  o the nodes display in response to an instruction of the user execute the

     graph drawing module a graph showing transition of at least one of the

     insurance fee and a guarantee fee according to the input condition, and

     (Figures 3-6, Figure 7; col. 7, lines 1-39: shows insurance fees according

     to user input)

Powers discloses the system/method substantially as recited in claim 1, but do not

expressly disclose calculating information regarding surrender values, in accordance with

user instruction.

Tyler discloses a system/method further comprising:

- o the nodes in accordance with an instruction of the user output a request

  for calculating of a surrender value to the server apparatus, and the server

  apparatus executes a surrender value calculation module in accordance

  with the request to calculate the surrender value and notify a result to the

  nodes. (col. 20, lines 57-64; col. 30, lines 58-63; col. 31, lines 18-26; col.

  32, lines 64-col. 33, line 7)

At the time of the applicant's invention, it would have been obvious to one of ordinary skill

in the art to modify the system/method of Powers with the teaching of Tyler to include

surrender values among the calculations performed in relation to the insurance product.

As suggested by Tyler, one would have been motivated to include this feature to simplify

the process of providing sales proposals including complex product information and

issuing products for insurance agents and sales support. (Tyler: col. 1, lines 35-col. 2, line

24)

Powers further discloses a system operates over communication network (Figure

1; col. 5, lines 31-42), but Powers and Tyler in combination do not expressly disclose:

- o downloading an insurance fee calculation module, a data storage calling

  module and a graph drawing module from the server apparatus, (col. 5,

  lines 30-60; col. 6, lines 9-24) via the arbitrary network.

However, as disclosed by Cowan, downloading software modules a server to execute on

a local client is old and well known in the art. (col. 4, lines 66-col. 5, line 8). At the time of

the Applicant's invention, it would have been obvious to one of ordinary skill in the art to

further modify the teachings of Powers and Tyler to download the software modules from

a server and execute them locally at the client. One would have been motivated to

include this feature minimize network traffic and improve user accessibility.

[claim 2] Powers discloses the insurance design service providing system according

to claim 1, wherein the nodes download a handling definition module from the server

apparatus to check whether or not the condition concerning the insurance product are

contrary to predetermined law and regulation, and display a result. (col. 11, line 45-col.

12, line 9—in compliance with regulations and benchmarks)

[claim 3]   Powers discloses an insurance design service providing system according to

claim 2, wherein said server apparatus performs, with respect to the insurance product

based on said inputted condition, at least one processes of examining whether said

insurance product meets prescribed regulations, calculating an insurance fee, extracting

contents of a guarantee, calculating the surrender value, and detecting information

regarding accounting processing. (Figure 1,3, 15; col. 6, lines 26-48, col. 7, lines 1-51)

[claim 4]   Powers teaches an insurance design service providing system according to

claim 2, wherein said server apparatus transmits the graph drawing module to said nodes

for graphically displaying information on the result of said each process at said node.

(Figures 1,3-10, col.7, line 58-col. 8, line 32)

[claim 5]   Powers teaches the insurance design service providing system according to

claim 2, wherein said insurance product is life insurance. (see abstract)

[claim 6]   Powers teaches the insurance design service providing system according to

claim 5, wherein any of said plurality of nodes inputs prescribed conditions relating to a

design of the life insurance into said server apparatus. (Figure 1, col. 6, lines 14-48)

[claim 7]   Powers teaches the insurance design service providing system according to

claim 6, wherein said server apparatus outputs information relating to the life insurance

meeting said inputted conditions. (col. 5, line 43-col. 6, line 8)

[claim 8] Powers teaches the insurance design service providing system according to claim

7, wherein prescribed conditions relating to the design of said life insurance includes at

least one of conditions pertaining to age of a policyholder, gender, a payment method of the

insurance fee (e.g. premium), a period of payment of the insurance fee (e.g. premium), or

contents of a guarantee including an amount insured. (Figures 3-6; col. 7, lines 1-29)

[claim 9] Powers teaches the insurance design service providing apparatus including :

-      a server apparatus connected to an arbitrary communication network to which a

       plurality of nodes are connected (Powers: Figure 1: ref. 44; col. 5, lines 43-61; col. 6,

       lines 9-24), said server apparatus comprising:

       -      a receiving means for receiving prescribed conditions relating to design of

              prescribed insurance from any said node; (Figure 1, col. 5, lines 31-42)

- an information generation means for generating information regarding said insurance product meeting said received conditions; and (col. 5, lines 43-61)

- a transmission means for transmitting said generated information to said node from which said prescribed information is inputted.(col. 5, lines 36-39—communication link/network or the Internet)

- outputting means for outputting information relating to an insurance product meeting conditions on a basis of the condition input from any of the nodes connected to the arbitrary communication network; and (Powers: Figure 1: ref. 44; col. 5, lines 43-61; col. 6, lines 9-24)

- wherein the nodes comprise:

    o executing means for executing the insurance fee calculation module to input the condition relating to the insurance product by providing an input screen, and to calculate an insurance fee on the basis of the input condition and display the insurance fee (col. 6, lines 9-24; col. 7, lines 1-39; Figures 3-6)

    o executing means for executing the data storage calling module when calculating the insurance fee to communicate with a database management module executed by the server apparatus, and to input stored data which is obtained by the database management module by accessing to a database and display the stored data on the input screen in a state correctable for a user, (col. 5, lines 30-60; col. 6, lines 9-24; col. 7, lines 1-39)

    o executing means for executing in accordance with an instruction of the user the graph drawing module to display a graph showing transition of at least

one of the insurance fee and a guarantee fee according to the input condition

(Figures 3-6, Figure 7; col. 7, lines 1-39: shows insurance fees according

to user input)

Powers teaches the system/method substantially as recited in claim 9, but does

not expressly disclose calculating information regarding surrender values, in accordance

with user instruction.

Tyler discloses a system/method further comprising:

o executing means for executing a surrender value calculation module, the

executing means of the server apparatus executes the surrender value

calculation module in accordance with the request to calculate the surrender

value and notify a result to the node and wherein nodes comprise outputting

means for outputting in accordance with an instruction of the user a request

for calculating of a surrender value to the server apparatus. (col. 20, lines 57-

64; col. 30, lines 58-63; col. 31, lines 18-26; col. 32, lines 64-col. 33, line 7)

At the time of the applicant's invention, it would have been obvious to one of ordinary skill

in the art to modify the system/method of Powers with the teaching of Tyler to include

surrender values among the calculations performed in relation to the insurance product.

As suggested by Tyler, one would have been motivated to include this feature to simplify

the process of providing sales proposals including complex product information and

issuing products for insurance agents and sales support. (Tyler: col. 1, lines 35-col. 2, line

24)

Powers further discloses a system/method that operates over a communication network (Figure 1; col. 5, lines 31-42), but Powers and Tyler in combination do not expressly disclose:

- o downloading an insurance fee calculation module, a data storage calling module and a graph drawing module from the server apparatus, (col. 5, lines 30-60; col. 6, lines 9-24) via the arbitrary network.

However, as disclosed by Cowan, downloading software modules a server to execute on a local client is old and well known in the art. (col. 4, lines 66-col. 5, line 8). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Powers and Tyler to download the software modules from a server and execute them locally at the client. One would have been motivated to include this feature minimize network traffic and improve user accessibility.

[claim 10] Powers discloses an insurance design service providing apparatus according to claim 9, wherein the downloading means of the nodes downloads a handling definition module from the server apparatus to check whether or not the conditions concerning the insurance product are contrary to predetermined law and order, and display a result. (col. 11, line 45-col. 12, line 9—in compliance with regulations and benchmarks)

[claim 11]   Powers teaches the insurance design service providing apparatus according to claim 10, wherein said node further comprise generating means for generating insurance specification information on the nodes. (col. 9, lines 1-26)

[claim 12]   Powers teaches the insurance design service providing apparatus according to claim 11, wherein said server apparatus further comprises performing means for performing, with respect to the insurance product, based on said inputted condition, at least one of the following processes: examining whether said insurance product meets the prescribed regulations, calculating an insurance fee (e.g. premium), extracting contents of a guarantee, calculating a surrender value, and detecting information regarding accounting processing. (Figure 1,3,15; col. 6, lines 26-48, col. 7, lines 1-51)

[claim 13]   Powers teaches the insurance design service providing apparatus according to claim 12, wherein the performing means outputs information on the at least one process. (col. 5, lines 43-61; col. 9, lines 25-57)

[claims 14-15]   Powers discloses the insurance design service providing apparatus the server apparatus further comprises transmission means and wherein the transmission means causes information about the process to be graphically displayed on a node. (Figures 1,3-10, col.7, line 58-col. 8, line 32)

[claim 16]   Powers teaches the insurance design service providing apparatus

according to claim 11, further including database means for storing prescribed conditions

relating to a design of the insurance product inputted from said nodes. (col. 5, lines 48-61)

[claim 17]   Powers teaches the insurance design service providing apparatus

according to claim 16, wherein said insurance product is life insurance. (see abstract)

[claim 18]   Powers teaches the insurance design service providing apparatus according

to claim 17, wherein the server apparatus further comprises receiving means for receiving

the prescribed conditions relating to the design of the life insurance from said nodes.

(Figure 1, col. 5, lines 31-42)

[claim 19] Powers teaches the insurance design service providing apparatus according to

claim 18, wherein said outputting means of the server apparatus outputs information

relating to the life insurance meeting said received conditions. (Figure 1, col. 5, lines 31-

42; col. 8, lines 65-col. 9, line 62)

[claim 20] Powers teaches the insurance design service providing apparatus according to

claim 19, wherein prescribed conditions relating to the design of said life insurance includes

at least one of conditions pertaining to age of a policyholder, gender, a payment method of

an insurance fee (e.g. premium), a period of payment of an insurance fee (e.g. premium),

or contents of a guarantee including an amount insured. (Figures 3-6; col. 7, lines 1-29)

[claim 21]   Powers teaches an insurance design service providing method comprising

the steps of:

-    connecting a server apparatus to a communication network as a web site, wherein

     a plurality of nodes is connected to said communication network and said server

     apparatus outputs information relating to an insurance product meeting conditions

     on a basis of condition input from any of the nodes connected to the

     communication network;; (Powers: Figure 1: ref. 44; col. 5, lines 30-61; col. 6,

     lines 9-24)

-    executing the insurance fee calculation module by the nodes to input the condition

     relating to the insurance product by providing an input screen, and to calculate an

     insurance fee on the basis of the input condition and display the insurance fee;

     (col. 6, lines 9-24; col. 7, lines 1-39; Figures 3-6)

-    executing the data storage calling module by the nodes when calculating the

     insurance fee to communicate with a database management module executed by

     the server apparatus, and to input stored data which is obtained by the database

     management module by accessing to a database and display the stored data on

     the input screen in a state correctable for a user; (col. 5, lines 30-60; col. 6, lines

     9-24; col. 7, lines 1-39)

-    executing the graph drawing module by the nodes in accordance with an

     instruction of the user to display a graph showing transition of at least one of the

insurance fee and a guarantee fee according to the input condition; (Figures 3-6,

Figure 7; col. 7, lines 1-39: shows insurance fees according to user input)

Powers discloses the system/method substantially as recited in claim 21, but does

not expressly disclose calculating information regarding surrender values, in accordance

with user instruction.

Tyler discloses a system/method further comprising:

- outputting a request for calculating a surrender value from the nodes to the server

  apparatus in accordance with an instruction of the user; and (col. 20, lines 57-64;

  col. 30, lines 58-63; col. 31, lines 18-26; col. 32, lines 64-col. 33, line 7)

- executing a surrender value calculation module by the server apparatus in

  accordance with the request to calculate the surrender value and notify a result to

  the nodes. (col. 20, lines 57-64; col. 30, lines 58-63; col. 31, lines 18-26; col. 32,

  lines 64-col. 33, line 7)

At the time of the applicant's invention, it would have been obvious to one of ordinary skill

in the art to modify the system/method of Powers with the teaching of Tyler to include

surrender values among the calculations performed in relation to the insurance product.

As suggested by Tyler, one would have been motivated to include this feature to simplify

the process of providing sales proposals including complex product information and

issuing products for insurance agents and sales support. (Tyler: col. 1, lines 35-col. 2, line

24)

Powers further discloses a system/method that operates over a communication network (Figure 1; col. 5, lines 31-42), but Powers and Tyler in combination do not expressly disclose:

   o downloading an insurance fee calculation module, a data storage calling
      module and a graph drawing module from the server apparatus, (col. 5,
      lines 30-60; col. 6, lines 9-24) via the arbitrary network.

However, as disclosed by Cowan, downloading software modules a server to execute on a local client is old and well known in the art. (col. 4, lines 66-col. 5, line 8). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Powers and Tyler to download the software modules from a server and execute them locally at the client. One would have been motivated to include this feature minimize network traffic and improve user accessibility.

[claims 22] Powers discloses the insurance design service providing method according to claim 21, wherein,

   - said server apparatus transmits to at least one of the nodes the calculation
      module, the data storage calling module, and graph drawing module, when said
      web site is accessed from any of said nodes; (col. 5, lines 34-39; col. 11, line 59-
      col. 12, line 11)

   - said server apparatus outputs information relating to the insurance product
      meeting said inputted condition; and (col. 5, lines 43-61)

- said at least one of the node outputs insurance information by executing said

    calculation module, the data storage calling module, and graph drawing module,

    based on said information output from said server apparatus (col. 9, lines 25-col.

    10, line 9)

[claim 23]   Powers teaches the insurance design service providing method according to

claim 22, wherein said insurance product is life insurance (see abstract); and

desired information relating to the life insurance meeting condition includes at least one:

information items about whether said life insurance meets the prescribed regulations,

information about the insurance fee (e.g. calculating a premium), extracting the contents

of a guarantee, information about the surrender value (calculating a surrender value),

and detecting information regarding accounting processing. (Figure 1,3, 15; col. 6, lines

26-48, col. 7, lines 1-51)

[claim 24]   Powers teaches the insurance design service providing method according to

claim 22, wherein said insurance is life insurance (see abstract); and wherein prescribed

conditions relating to the design of said life insurance includes at least one of conditions

pertaining to age of a policyholder, gender of a policyholder, a payment method of the

insurance fee(e.g. a premium), a period of payment of the insurance fee (e.g. a premium),

or contents of a guarantee including an amount insured. (Figures 3-6; col. 7, lines 1-29).

Response to Arguments

10.   Applicant's arguments with respect to claims 1-24 have been considered but are

moot in view of the new ground(s) of rejection.

Applicant argues the newly added limitations. The examiner has added additional

citations and a new reference to address the new limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-

6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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RP

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Robert Morgan
ROBERT W. MORGAN
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600